

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SUMBA HUTSON

Plaintiff

-against-

FIRST AMENDED COMPLAINT
PLAINTIFFS DEMAND
TRIAL BY JURY

THE CITY OF NEW YORK & POLICE OFFICER 07 CV 9356 (GBD)
ALEXANDER BERRIOS, Shield # 29758

Defendants
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AS AND FOR A FIRST CAUSE OF ACTION
ON BEHALF OF THE PLAINTIFF

1. This is a civil action for damages brought pursuant to redress the deprivation by defendants of the rights secured to plaintiff under the Constitution and laws of the United States and State of New York. The defendants, without a warrant and without probable cause, falsely arrested, falsely imprisoned and violated the civil rights of the plaintiff.

2. That the jurisdiction of this Court is invoked under the provisions of Section 1331 & 1383 of Title 28 and Sections 1983 & 1988 of Title 42 of the United States Code . Plaintiff further invokes the pendant jurisdiction of this Court to consider claims arising under state law. The amount in controversy exceeds \$75,000.00 excluding costs and attorney's fees.

3. That at all times hereinafter mentioned, the plaintiff SUMBA HUTSON was and still is a resident of the County of Kings, City & State of New York.

4. That the defendant THE CITY OF NEW YORK was and is a municipal corporation organized and existing under the laws of the City and State of New York.

5. That the defendant POLICE OFFICER ALEXANDER BERRIOS Shield # 29758 was and is an agent, servant and employee of the defendant THE CITY OF NEW YORK

6. That more than thirty days have elapsed since the service of said Notice of Claim upon the defendant and the defendant has refused to compromise this action.

7. That on or about the 17th day of July, 2005 the plaintiff was lawfully present at or near 360 Clifton Place in the County of Kings, City & state of New York.

8. That while at the aforesaid time and place the plaintiff was unlawfully and without just cause or, upon information & belief, with a warrant approached, accosted, & falsely arrested & imprisoned for approximately forty eight hours under CC # 57559977ZJ & arrest # K 05655076 by the aforementioned officers of THE NEW YORK CITY POLICE DEPARTMENT who were agents, servants and employees of the defendant THE CITY OF NEW YORK who were acting under color of law during the aforesaid transactions.

9. In the manner as aforesaid, each of the defendants, jointly & severally, acted maliciously, willfully and wantonly, and outside the scope of his jurisdiction, although under color of law, and violated the following rights of the plaintiff; to be free from unreasonable search & seizure, from warrantless search & seizure, from , summary punishment without trial & due process of law.

10. Defendants, its agents servants and employees, by their conduct herein alleged, intentionally, willfully and without justification, and under color of law did deprive the plaintiff of his rights, privileges and immunities secured to him by the Constitution and the laws of the United States, and by 42 U.S.C. Sections 1983 & 1988 and by the statutes and laws of the state of New York which are invoked under the pendant jurisdiction of this Court.

11. That by reason of the foregoing the plaintiff has suffered damage & injury in the sum of ONE MILLION DOLLARS.

WHEREFORE, the plaintiff respectfully preys to the court for judgment upon each cause of action as follows:

- a. Compensatory damages in an amount which this Court shall consider to be just and fair:
- b. Punitive and exemplary damages in an amount which this Court shall consider to be just & fair;
- c. Attorney's fees in an amount which this Court shall consider just & fair;
- d. Together with the costs and disbursements of this action and such other and further relief which this Court may seem just & proper.

DATED: BROOKLYN, NY
October 16, 2007.

MICHAEL COLIHAN (MC-0826)
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